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EXAMINER

BLAIR, DOUGLAS B

ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/651,585
Filing Date: August 29, 2000
Appellant(s): INAGAKI ET AL.

Gerald H. Glanzman (Reg. No. 25,035)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/8/2006 appealing from the Office action mailed 12/27/2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

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Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,363,434 to Eytchison.

As to claim 1, Eytchison teaches a client server system using distributed objects (In Figure 3, the home server is a server for providing access to the devices which are distributed objects), comprising: a client connected to a communication network for performing an access request to an object (col. 6, line 64-col. 7, line 11, the user accessing the user application of the home server is a client connected to the network); an application server for performing an application by an actual object according to the access request by said client (col. 6, line 64-col. 7, line 11, the user application allows the user to access the software on the devices); and an object pool server connected to said client through said communication network and connected to said application server for pooling a proxy object corresponding to said actual object and for holding actual object management information that is part of said actual object (col. 7, lines 20-29, the resource manager pools representations of the proxy devices), wherein said application server notifies said object pool server of an event according to a change in status of said application, and said object pool server automatically updates said actual object management information according to the notification of said event from said application server (col. 7, lines 20-28, the user application notifies the resource manager of a pending user request. A user request leads to a change in device management information).

As to claim 2, Eytchison teaches the client server system as set forth in claim 1, wherein the event notified from said application server is formed according to at least one of the result of a process of starting a project and the result of stopping a project (col. 7, lines 12-20, the user's request is considered a project and the use of the device features "starting" and "stopping").

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As to claim 3, Eytchison teaches an object pool using distributed objects, comprising: a client request analyzing unit for analyzing an access request to an object (col. 7, lines 12-28, user's requests for the resources, considered objects, are analyzed); an object information storage unit for storing an object information at a termination process of said object pool (col. 7, lines 12-28, the resource pool is considered the object information storage unit); an object creating unit for creating an object at the starting process of said object pool according to said object information sorted by said object information storage unit (col. 7, lines 12-28, the resource manager uses the data from the resource pool in order to manage the resources.); and an object managing unit for pooling the object created by said object creating unit before accessing said object from said client (col. 7, lines 12-28).

As to claim 4, Eytchison teaches an object pool as set forth in claim 3, wherein the object information stored by said object information storage unit is constructed so that it can be at least recognized to be the last accessed object, and said object creating unit starts creation from said last accessed object (col. 7, lines 12-28).

As to claims 5, 10, and 12, they feature the same limitations as claim 1 and are rejected for the same reasons as claim 1.

As to claim 6, Eytchison teaches the client server system as set forth in claim 5, wherein an object pool server having the function of said object pool and an application server in said application execution environment are connected to each other through a network, said object pool server objects as proxy objects (col. 7, lines 12-28).

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As to claim 7, Eytchison teaches the client server system as set forth in claim 5, wherein said object pool and said application execution environment are formed on the same server (col. 6, line 64-col. 7, line 11, the home server).

As to claims 8, 11, and 13, they feature the same limitations as claim 3 and are rejected for the same reasons as claim 3.

As to claim 9, Eytchison teaches the object pooling method of claim 8, wherein said object information is stored with a predetermined priority, and said objects are created in descending order with respect to said priority (col. 9, lines 40-56).

As to claim 14, Eytchison teaches a program sending apparatus, comprising: a storage unit for storing a software product which makes a computer execute an event forming program for forming an event according to a change in status of an application utilizing distributed objects, and an object pooling program for pooling objects according to the event formed by said event forming process (col. 7, lines 12-28); and a sending unit for reading out said program from said storage unit, and sending said software product (col. 7, lines 12-28).

As to claim 15, it features the same limitations as claim 14 and is rejected for the same reasons as claim 14.

(10) Response to Argument

Response to Argument A.1:

First, the appellant argues that *Eytchinson does not disclose "A client server system using distributed objects" as recited in claim 1 because "The electronic devices in Eytchinson*

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are physical devices are not distributed objects used in the client server system as recited in claim 1, as defined by the present specification and generally recognized by those skilled in the art.” The appellant points to page 1, lines 14-18 of the appellant’s specification to support this argument which states, “Distributed objects are made from data, applications, or processes and the like, and can be accessed from any place in a network and used for tasks”. The physical devices in Eytchinson (televisions, DVD players, etc.) feature software including applications and processes that manipulate data. Figure 2 shows that any of the physical devices can be accessed from any place in a network via the Home Server 214. The appellant’s specification further defines “distributed objects” by stating, “More specifically, they [distributed objects] *enable* an object oriented method call to be remotely operated, and constructed as middleware implementing an objected oriented programming interface in the upper layer of the socket level”. Nothing in the teachings of Eytchinson precludes *enabling* an object oriented method call to be remotely operated, and constructed as middleware implementing an object oriented programming interface in the upper layer of the socket protocol.

Next, the appellant argues that, *“The device proxies 370a-370i in Eytchinson are not the same as the proxy object recited in claim 1. In Eytchinson, the device proxies are software in home server 214 that control the physical electronic devices. They are not ‘mirages’ of the electronic devices.”* However, since the device proxies in Eytchinson control the actual software on the physical devices, considered to be distributed objects, they read on the claimed “proxy objects”. This assertion is supported by col. 6, lines 40-49 of Eytchinson: “Home server 214 further includes a plurality of software device proxies 370a-370i each for controlling one of the devices of home network 200. For example, software device proxy 370c is for controlling TV

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211c, and device proxy 3701 is for controlling VCR 212, etc. that are coupled to the IEEE 1394 bus interface 380. In one embodiment of the present invention, the software device proxies 370 may include HAVI Device Control Modules (DCMs) and Functional Control Modules (FCMs).” Since a device proxy can control the functions of the software of a device it is even be considered a “mirage” of the electronic device.

Furthermore, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). So the crux of the appellant’s arguments, that Eytchinson does not teach “distributed objects” and “proxy objects”, is based on limitations taken from the specification and therefore not even relevant to validity of the currently applied anticipation rejection. The examiner cannot agree that physical devices whose software applications can be accessed via a network are not “distributed objects” and that device proxies that control the software on these devices remotely are not a “proxy objects”.

Finally, the appellant generally alleges that ***user application 310 and resource manager 320 in Eytchison are not the same as, and do not perform the same function as the application sever and the object pool server, respectively, of claim 1.*** Specifically the applicant is arguing that the user application cannot be interpreted as the application server and the resource manager cannot be interpreted as the object pool server. However, by allowing a user to perform applications on the physical devices, the user application is considered an application server as claimed. Likewise, the resource manager of Eytchinson manages the proxy objects related to the devices and therefore also reads on the appellant’s invention as claimed. Furthermore, the appellant’s specification does not give more than a conceptual overview of the “application

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server” and the “object pool server” so it therefore reasonable to interpret the user application and the resources manager, both present on Eytchinson’s home server as the claimed “application server” and “object pool server”, respectively, because the appellant’s specification does nothing to contradict this interpretation. Notice the appellant never argues that the “user application” does not operate in the same way as the “application server” and never argues that the “resource manager” does not operate in the same manner as the “object pool server”.

In conclusion with regard to argument A.1, the Examiner has tried to reasonably interpret the claims in view of the appellant’s specification but the appellant’s specification provides only a vague concept of the term “distributed object” on page 1, lines 14-18 of the appellant’s specification. The appellant argues that one skilled in the art would generally recognize the differences between Eytchinson’s “distributed object” and the appellant’s “distributed object” but provides absolutely no support for this statement. In the same manner, appellant states that the “user application” cannot be considered the “application server” and the “resource manager” cannot be considered the “object pool server” without any support for this assertion from the appellant’s specification. In essence the appellant is arguing what the appellant’s invention is **not** while failing completely to provide any concept of what the invention is. The appellant’s specification does not remedy this failure.

Response to Argument A.2:

The appellant argues that *Eytchison does not disclose “an object creating unit for creating an object at a starting process of said object pool according to said object information stored by said object information storage unit” nor “an object managing unit for pooling the*

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object created by said object creating unit before accessing said object from said client” as in claim 3. The resource manager is considered the object pool since it manages the representations of the resources, which are considered objects. The resource pool is considered the object storage unit because it stores “data representative of the available devices” for the resource manager. When the resource manager “checks out” a resource, the resource manager is creating new object to represent the “checked out” state of the resource based on information from the resource pool. Consequently, the resource cannot be accessed before it is “checked out”, thus Eytchison teaches “an object managing unit for pooling the object created by said object creating unit before accessing said object from said client”. The appellant has not pointed to any section of the appellant’s specification that contradicts this interpretation. To argue that Eytchison does not teach creation because it’s not explicitly states is completely paradoxical because an “object” cannot exist without being created.

The Examiner would also like to point out that the appellant argues that claims 8, 11 and 15 are allowable for the same reasons as argued in claim 3 but the limitations argued with respect to claim 3 are not found in claims 8, 11, and 15.

Response to Argument A.3:

The appellant argues that Eytchison nowhere discusses object information being stored with a predetermined priority and objects being “created in descending order with respect to said priority” as recited in claim 9. As pointed out above the representation of the resource is considered an object so the users with higher priority will be creating “check out” objects before

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those with lower priority therefore Eythsison teaches the creation in a descending order with respect to priority.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

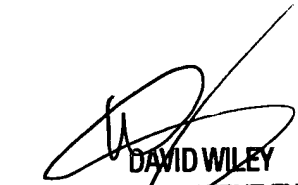
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